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UNITED PUBLIC WORKERS,  
AFSCME, LOCAL 646, AFL-CIO

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

JEANNE ENDO,	)	CIVIL NO. CV03-00563 LEK
	)	
Plaintiff,	)	DEFENDANT UNITED PUBLIC
	)	WORKERS' MEMORANDUM IN
vs.	)	OPPOSITION TO PLAINTIFF'S
	)	MOTION IN LIMINE TO
UNITED PUBLIC WORKERS,	)	EXCLUDE EVIDENCE OF
AFSCME LOCAL 646, AFL-CIO,	)	PLAINTIFF'S PAST SEXUAL
	)	BEHAVIOR; CERTIFICATE OF
Defendant,	)	SERVICE
	)	
vs.	)	
	)	
GARY W. RODRIGUES,	)	
	)	TRIAL DATE: May 13, 2008
Third-Party Defendant.	)	
	)	
	)	

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DEFENDANT UNITED PUBLIC WORKERS' MEMORANDUM IN  
OPPOSITION TO PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE  
EVIDENCE OF PLAINTIFF'S PAST SEXUAL BEHAVIOR

Defendant United Public Workers, AFSCME Local 646, AFL-CIO ("UPW") requests that the Court deny PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF PLAINTIFF'S PAST SEXUAL BEHAVIOR, filed April 22, 2008, for the reasons set forth below:

Plaintiff testified that when she had sex with Gary Rodrigues in 1998, she explained to him that she had hickies on her breast from her then-boyfriend, and Mr. Rodrigues was upset and unhappy. (Endo deposition at p. 88, line 15 to p. 89, line 25). This testimony supports UPW's defense that the Endo/Rodrigues relationship was voluntary and consensual and not "unwelcomed." This testimony also supports that one of Plaintiff's motives for not complaining to others about her sexual relations with Mr. Rodrigues was to keep the consensual relationship concealed from her then-boyfriend, not because she feared retaliation. Under these circumstances, this specific evidence is relevant to UPW's defense and would not be offered merely to embarrass Plaintiff or to portray her as promiscuous. This evidence is limited in scope and UPW's defense will be unfairly prejudiced if this specific evidence is excluded.

DATED: Honolulu, Hawaii, April 29, 2008.

/s/ Charles A. Price

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